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Human Rights Committee
Eighteth session

Summary record the first part (public)* of the 2166th meeting
Held at Headquarters, New York, on Monday, 15 March 2004, at 10 a.m.

Chairperson: Mr. Amor

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.2166/Add.1.

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04-27052 (E)

The meeting was called to order at 10.15 a.m.

Opening of the session

1. **The Chairperson** declared open the eightieth session of the Human Rights Committee.

Adoption of the agenda (CCPR/C/152)

2. *The agenda was adopted.*

Organizational and other matters

Adoption of the programme of work

3. **The Chairperson** drew the Committee's attention to the tentative programme of work for the session.

4. **Mr. Schmidt** (Secretary of the Committee) said that all the States parties originally scheduled to report at the eightieth session would appear. Since the previous session, reports had been received from Albania, Benin, Morocco and Poland and were expected shortly from Brazil, Bulgaria, Greece and Iceland. A further campaign of reminders to late submitters had been conducted. A series of lunchtime briefings by non-governmental organizations would be held during the session concerning the States parties reporting.

5. There were over 300 communications pending under the Optional Protocol to the Covenant, more than ever before. A total of 41 draft decisions, including 20 carried over from the seventy-ninth session and 21 to be forwarded from the pre-sessional Working Group, were ready for the Committee's consideration at the current session.

6. In terms of staffing, the secretariat had a new staff member dealing with Spanish-language communications and a new Junior Professional Officer to work on article 40-related issues. The General Assembly at its latest session had approved a regular-budget P-5 post for the Chief of the Petitions Unit, which was soon to be advertised, and it was envisaged to add a regular-budget P-4 post to the Petitions Unit.

7. **Mr. Scheinin** recalled that several years earlier the Committee had tried the experiment of urging States parties with overdue reports and serious human rights problems to submit promptly either their regular report or a special report. He proposed that the Committee should look again at the States parties that were late in reporting, and if there was reliable information that they had derogated from the Covenant, in line with General Comment No. 29, the Committee should ask for prompt submission of the report or submission of a special report.

8. **The Chairperson** said that he would submit the proposal to the Bureau.

9. *The programme of work was adopted.*

Report of the Chairperson/Rapporteur of the pre-sessional Working Group

10. **Mr. Shearer**, speaking as Chairman/Rapporteur of the Working Group on Communications, said that the Working Group had been able to consider 24 of the 26 draft recommendations and decisions placed before it by the Secretariat. It had declared three communications admissible and had adopted 21 recommendations for transmittal to the Committee. In addition, it had issued requests for interim measures of protection in two urgent death penalty cases that had been filed against a State party while the Working Group had been meeting.

Meeting with representatives of non-governmental and intergovernmental organizations

11. On being invited by the Chairperson to engage in a dialogue with the Committee, **Mr. Heiber** (Amnesty International), **Ms. Hermoso Borges** (International Labour Organization) and **Ms. Baird** (Worldwide Organization for Women) said that they were not prepared to make a statement at that time, but would be available to answer questions about their written briefings.

12. **The Chairperson** said that the Committee attached great importance to an interactive dialogue with non-governmental and intergovernmental organizations, which was the tradition in Geneva. It enabled the Committee to ask questions, obtain clarification and make comments on the written briefings. Perhaps the organizations based in New York should be given more information, so that they could take better advantage of the opportunity offered.

13. **Mr. Bhagwati** noted that the earlier the Committee members received written briefings from the non-governmental organizations the more readily they could discuss them and the more use they could

make of them when considering reports submitted by States parties.

14. **Sir Nigel Rodley** said that the absence of non-governmental and intergovernmental organizations at the present session in New York once again raised the question of venue. Non-governmental organizations with specific expertise were generally able to attend in Geneva, but were not able to send their experts when the Committee was meeting in New York.

15. **Mr. Solari Yrigoyen** said that non-governmental organizations should bear in mind that the official languages of the Committee were English, French and Spanish. If reports were submitted in all three languages by those organizations with multilingual capability it would certainly expedite their consideration by the non-English-speaking Committee members.

16. **Mr. Ando** said that late submission of reports by non-governmental and intergovernmental organizations was an obstacle to a lively discussion, but noted that some of the information they had available was confidential, and they might hesitate to divulge it in a public meeting. In Geneva, such meetings were closed.

17. **The Chairman** said that there might yet be an opportunity for such an exchange.

The public part of the meeting rose at 10.45 a.m.

United Nations CCPR/C/SR.2167

International Covenant on Civil and Political Rights

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Human Rights Committee
Eighteenth session

Summary record of the 2167th meeting
Held at Headquarters, New York, on Monday, 15 March 2004, at 3 p.m.

Chairman: Mr. Amor

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Consideration of reports submitted by States parties under article 40 of the Covenant

Fifth periodic report of Colombia

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04-27058 (E)

The meeting was called to order at 3.10 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant

Fifth periodic report of Colombia
(CCPR/C/COL/2002/5)

1. *At the invitation of the Chairperson, the delegation of Colombia took places at the Committee table.*

2. **Mr. Giraldo** (Colombia), introducing his country's fifth periodic report, said that the administration of President Uribe was extremely open to working with international organizations and with United Nations entities in the field of human rights. An office of the United Nations High Commissioner for Human Rights was located in Bogotá, and several special rapporteurs of the Commission on Human Rights had recently visited the country. His Government also worked closely with the Inter-American Commission on Human Rights and gave non-governmental organizations (NGOs) full scope to carry out their activities. His Government was intent on creating a climate of openness and democracy, which guaranteed the civil, political, economic, social and cultural rights of all citizens. Even in the midst of conflict and violence, it was making every effort to ensure that the State was strong enough and had the necessary instruments to enforce the rule of law without abusing its powers.

3. In Colombia displacement had decreased by 50 per cent and massacres by 33 per cent. Murders had decreased by 20 per cent overall. Murders of journalists were down by 43 per cent; of teachers, by 48 per cent; and of indigenous persons, by 9 per cent. Incidents of abduction had declined by 26 per cent. A Presidential referendum had been rejected on the grounds of light voter turnout and the election of a governor and mayor from the opposition left-wing party had been among the outstanding political achievements of the past year.

4. **The Chairperson** invited the delegation to address questions 1 to 15 on the list of issues (CCPR/C/79/L/COL).

Constitutional and legal framework within which the Covenant is implemented (article 2 of the Covenant)

5. **Ms. Gil** (Colombia), referring to question 1 on the list of issues, said that Legislative Act No. 223 was a constitutional reform amending articles 15, 24, 28 and 250 of the Political Constitution, and had been adopted by the required majority in Congress. The Act limited, but did not suspend or abolish, the rights to freedom and inviolability of domicile and communications. It adhered strictly to articles 9, 12, 14 and 17 of the Covenant which permitted limitation of those rights provided that it was not done in an arbitrary fashion and was subject to legal controls. The Legislative Act could be applied only to combating terrorism and was regulated by statutory laws — which took precedence over ordinary law in Colombia — imposing time limits on special powers (in certain cases, the maximum was four years) as well as administrative controls by the Attorney-General's Office and judicial controls over temporary measures and those implementing them. Political controls were also in place; the Government was required to report to Congress every month on how the special powers were being used.

6. Registration of residence was also subject to legal controls set out in statutory laws. The Fuerza Pública (Public Force, composed of the military forces and law enforcement officers) must abide by the provisions of article 14 of the Covenant in carrying out the functions of the judicial police and could not do so without the authorization of the Office of the Public Prosecutor. In the interest of national security, they could exercise their special powers only in specific circumstances and places, and were held to the same standards of accountability applicable to all State officials. Special powers were conferred provisionally and only for the purpose of supporting work already being carried out by the regular investigative authorities.

7. **Mr. Franco** (Colombia), referring to question 2, said that Decree No. 128 of 2003 was designed to encourage desertion from illegal armed groups and to facilitate their members' reintegration into civil society. The Decree was implemented by Act No. 782 of 2002, which prohibited persons who had committed war crimes or crimes against humanity from receiving the benefits set out in Decree No. 128 or from receiving any benefits contrary to Colombia's international obligations. In 2003 alone, 2,600 individuals, including 300 minors, who had benefited

under the Decree had withdrawn from illegal armed groups.

8. The *Comité Operativo para Dejación de las Armas* (CODA) did not take decisions on applying the Decree but rather was an administrative body responsible for verifying membership in illegal armed groups and evaluating individual decisions to abandon armed conflict.

9. Referring to question 3, he said that the bill to reform the justice system had been withdrawn and the various political parties and groups represented in Congress, the High Courts and the Public Prosecutor's Office were attempting to reach a consensus on amendments to *amparo* proceedings in the light of their role and importance in Colombian society since the adoption of the 1991 Political Constitution.

10. In his democratic manifesto, President Uribe had stressed the need for a negotiated solution to the armed conflict and appealed to the international community for support. Paragraph 35 of his policy on democratic security guaranteed that members of illegal armed groups who laid down their arms and wished to participate in a democratic society would be free to express dissident political views. In that connection, the Secretary-General had been requested to assign a special representative to use his good offices in a dialogue between the Government and the armed groups. Additionally, during the previous administration, the Catholic Church had made contacts with paramilitary groups interested in a cessation of hostilities and negotiating with the Government. However, despite confirmation by the Colombian High Commissioner for Peace, in 2002, of those groups' intention to disband and a government report of February 2004 documenting a significant decrease in their activity, violations had occurred. The Government therefore had decided that paramilitary groups interested in pursuing dialogue should congregate in certain designated areas and welcomed the intervention of the Mission to Support the Peace Process in Colombia appointed by the Permanent Council of the Organization of American States (OAS).

11. The draft act on alternative penalties, which was not mentioned in the list of issues, was designed to introduce legal mechanisms for achieving a negotiated peace by lightening the sentences of members of armed groups. The draft legislation had been proposed by President Uribe in a June meeting with non-governmental organizations and had been the topic of broad national debate by committees in the Senate and House of Representatives, NGOs, other civil society organizations and national experts. During the fifty-eighth session of the General Assembly, President Uribe had also invited input from the international community and, in January, the Colombian High Commissioner for Peace had launched public hearings on the topic. Without offering amnesty or pardon to convicted members of paramilitary groups, the alternative penalty system would suspend the sentences of persons demonstrating a willingness to cooperate with the justice system and embrace democracy. The Colombian authorities were well aware of the tremendous challenge involved in attempting to harmonize the possibilities for peace with the need to carry out justice, uncover the facts and make reparations to victims' families; however, it hoped that the international community would understand the urgency of overcoming the current crisis. The previous year had witnessed a 133 per cent increase in the capture of paramilitary group members and the reintegration of 787 such individuals into society.

12. **Ms. Gil** (Colombia), referring to question 4, said that under the Political Constitution, only the Public Force could use coercion to guarantee citizens' rights. The Public Force was charged with controlling all illegal armed groups or individuals which threatened civil rights and freedoms and Directive No. 15 of 2003 strengthened its institutional commitment in that regard. Under Decree No. 324 of 2000, a centre had been created to coordinate the struggle against paramilitarism and other illegal armed groups with the participation of the Ministry of Defence, the Ministry of the Interior, the Ministry of Justice, the Attorney-General's Office, the Public Prosecutor's Office, the Commander-in-Chief of the Armed Forces and the Director-General of the Police. The centre's work was crucial to promoting human rights in Colombia; the institutional strengthening of the Public Force, guaranteed effective protection of Colombian citizens, their property and their rights and freedoms.

13. **Mr. Ramírez** (Colombia), also referring to question 4, said that the statistics he provided must be understood in the specific context of the Colombian judiciary, particularly the role of the Attorney-General, who carried out the investigative functions that would be assigned to examining magistrates and criminal police in other legal systems, in addition to ordering

pre-trial detentions and determining what charges would be brought against the accused.

14. There was no legislation which specifically criminalized ties between the security forces and paramilitary groups, although of course charges could be laid for conspiracy or specific criminal activities. Between 1 August 2001 and 31 January 2004, the Human Rights Unit of the Office of the Public Prosecutor had begun 64 investigations, 68 members of the armed forces had been detained and 75 charges had been laid against members of the security forces. The police and military were implementing programmes and measures aimed at eliminating collusion with paramilitary groups. In operations against paramilitary groups in 2000 and 2003 respectively, 187 and 346 members of the security forces had been killed. Furthermore, in 2002 and 2003 respectively, 1,356 and 3,166 paramilitaries had been taken prisoner. The higher figures for 2003 testified to his Government's commitment to putting an end to paramilitarism.

15. **Ms. Gil** (Colombia), referring to question 5, recalled that Act No. 288 of 1996 specifically authorized the Government to implement the recommendations adopted by the Committee under the Optional Protocol to the Covenant. The Government and the judicial authorities first reviewed the recommendation and relevant international jurisprudence. The Constitutional Court had recently ruled that acquittals in cases which involved presumed human rights violations could be appealed.

16. Review of a recommendation from an international body was undertaken by the committee of ministers created by Act No. 288 of 1996, which included representatives of the ministries of defence, interior and justice and foreign affairs. Following a review of the case history, including whether or not all domestic remedies had been exhausted, the Committee decided whether the recommendation was valid and should be implemented. In principle, domestic legislative and constitutional guarantees of fundamental human rights, provided adequate protection. In cases where the committee of ministers decided not to implement a recommendation, its decision could nevertheless be appealed.

Equality of rights between men and women; principle of non-discrimination; and protection of the family and children (articles 3, 23, 24, and 26 of the Covenant)

17. **Ms. Gil** (Colombia), referring to question 6 on action taken against domestic violence, said that her Government, aware of the existing cultural and institutional impediments to the implementation of the laws on the matter, had included in the National Development Plan a programme on women's issues that dealt with educational and cultural matters, reproductive health, violence against women, political participation, communications, rural women, and institutional strengthening. The Presidential Advisory Council on Equal Rights for Women was actively introducing a gender perspective into all national plans and ensuring that all government departments developed a policy on women. A specific programme against domestic violence comprised prevention via education and dissemination of information on women's rights, detection and monitoring of instances of family violence, including the mistreatment of children, and encouraging the reporting of such incidents, and the provision of general inter-disciplinary health care for women in all regions of the country. Gender violence was a real problem in Colombia, not simply within the family, but also against displaced women and in the context of trafficking in women. Her Government was making a huge effort to achieve genuine equality for women as to rights and opportunities, and was committed to including women in the peace process.

18. In answer to question 7, the national programme on women's issues recognized the sexual and reproductive rights of women as human rights and made safe pregnancy, family planning, adolescent health, and the care of cervical cancer and sexually transmitted diseases part of the national health services offered.

19. **Mr. Ramírez** (Colombia), referring to the issue of abortion, observed that the Constitution protected the right to life, including that of the unborn person. Consequently, article 122 of the Penal Code made abortion a crime for both the woman and any accomplice. Article 124, however, provided for lesser penalties for abortion of a pregnancy resulting from rape or non-consensual sex. The new Penal Code, moreover, gave judges the latitude to impose lighter penalties or waive them altogether in such cases. Furthermore, article 32 of the Penal Code provided for the extinction of criminal responsibility if abortion was

performed for medical reasons, to protect the mother's life or to defend a basic human right.

20. **Mr. Ramírez** (Colombia), referring to question 8 on gender-based violence, said he was not aware of any comprehensive statistics which would indicate that there had been a reduced number of sentences for crimes of that kind. Gender-based violence certainly existed and the fact that victims often hesitated to bring charges, whether out of shame or because they feared additional repercussions or victimization as a result, made it difficult to obtain a true picture of the situation. The Public Prosecutor's Office was therefore implementing plans to establish special units for victims of gender-based violence where the latter would have access to psychologists and medical personnel trained in gender-based violence issues in order to encourage the reporting of such crimes.

21. **Mr. Franco** (Colombia), turning to question 9, said that he had no recent information on budgetary allocations for his Government's many programmes to benefit women, children, minorities and internally displaced persons. In 2003, however, funding had been found to educate 500,000 of the 2 million children who were not yet attending school. Some $13 million had been allocated to meet the food needs of displaced persons; emergency aid had been provided to 4,300 families; and a joint relief programme with the World Food Programme had been allocated $22 million. Approximately $40 million had been allocated to a social and economic stabilization fund. to give some idea of the magnitude of the problem, he pointed out that the funds allocated to assist displaced persons in 2003 had helped only 8,500 of the more than 300,000 households of displaced persons in the country. In 2003 and 2004, respectively, $25 million and $42 million had been allocated for transfers to indigenous territorial units.

States of emergency (article 4 of the Covenant)

22. **Mr. Franco** (Colombia), turning to question 10, recalled that emergency legislation had not been implemented for more than a year. While there had been calls to limit the Constitutional Court's powers in that regard, his Government had no intention of doing so. It was however its position that although the Court had the power to rule on the constitutionality of measures used to implement emergency legislation, the decision to declare an emergency must remain a political one taken by the executive branch and confirmed by Congress.

Right to life, liberty and security of person; prohibition of torture (articles 6, 7 and 9 of the Covenant)

23. Turning to the issue of "peasant soldiers" raised in question 11 on the list of issues, he said that the establishment of such units was governed by Act No. 48 of 1993 on military service. So-called "peasant soldiers", who were performing then compulsory military service, were housed in military bases, organized like units of the armed forces and subject to military discipline; they received the same training, including in the area of human rights as the armed forces. He recalled that there was often a dichotomy in Colombia between urban areas where citizens enjoyed the benefits of the rule of law and respect for their rights and smaller towns and rural areas where the Government was not in control and therefore could not ensure law and order and respect for human rights. As part of the strategy to assert the control of the legitimate, democratically elected Government over the nation's entire territory, units of peasant soldiers had been established to assist the security forces. Such units had been established in 450 of Colombia's 1,100 municipalities. The programme was a popular one and every week the Government received new requests from municipalities wishing to have such units established in their area.

24. **Mr. Ramírez** (Colombia), turning to question 12 on extrajudicial executions, including massacres and individual murders, said that the authorities were committed to investigating such matters. To date the Human Rights Unit of the Office of the Public Prosecutor had launched 46 investigations of reported massacres, resulting in 23 prosecutions and nine guilty verdicts.

25. **Mr. Franco** (Colombia), referring to question 13 on informers and collaborators, said that the use of collaborators and informers was provided for in paragraphs 18 and 130 to 132 of his Government's policy on defence and democratic security, which highlighted the duty of all citizens to cooperate in ensuring the rule of law. The purpose of the creation of such networks was not to seek confidential information but rather to encourage citizens to provide any information they might have which could assist in ensuring the security of society and protection of democratic institutions. The information provided was

verified by the Public Prosecutor's Office with a view to its use in legal proceedings. Collaborators and informers did not have the right to bear arms nor did they have any police powers; the distinction between the two was that informers were paid for information provided.

26. He stressed that in a context where the very foundations of democracy were being attacked, as evidenced by the targeting of teachers, union leaders, mayors, local authorities and others, protection of the rule of law could not be left to the security forces alone; every citizen had a responsibility to assist in ensuring the protection of society as a whole. The new security policy had been successful not only in fighting armed insurrection but in reducing the rate of common crimes; for example, incidents of theft had been reduced by 37 per cent, kidnapping by 26 per cent and vehicle theft by 23 per cent.

27. **Mr. Ramírez** (Colombia), responding to question 14, said that while the new Penal Code did provide for the punishment of crimes against humanity such as genocide, it had come into effect so recently — in 2001 — that there had as yet been no complaints or investigations of cases of genocide. However, forced displacements that constituted heinous crimes, all dating from before 2001, were already being prosecuted under the new Penal Code, as part of the Government's successful democratic security policy: currently the Human Rights Unit of the Public Prosecutor's Office (report, para. 144) was conducting 17 investigations and one had already led to a conviction. He was pleased to report that the instances of forced displacement had — according to figures provided by independent non-governmental organizations — fallen by 50 per cent in the course of 2003. Moreover, the Human Rights Unit had 41 ongoing investigations of forced disappearances, in addition to the investigations being conducted by the local public prosecutor's offices throughout the country.

28. His Government was actively supporting all police investigations and public prosecutions of the "social cleansing" operations referred to in question 15. In January 2004, for example, the entire Human Rights Unit had been dispatched to a south-western town in an operation in which 23 members of an illegal paramilitary force guilty of social cleansing had been captured.

29. All incidents of social cleansing had taken place in the course of the conflict. Even some police officers had been found to have killed civilians under the false pretence that they had been combatants.

30. **Mr. Solari Yrigoyen**, expressing appreciation for the high-level delegation sent by Colombia, observed that the fifth periodic report was a distinct improvement over the previous one, but that while it contained a plethora of information about legislation and agencies, it gave no sense of how effective they actually were. The Government's commitment to human rights was clear, however, and it was making valiant efforts to defend democracy even in a climate of violence which, unfortunately, was only worsening.

31. Given the almost permanent state of emergency in Colombia and the frequent failure to distinguish between combatants and civilians, he expressed particular concern over the constitutional reform legislation of 2003, which would reportedly nullify the right of habeas corpus, establish restrictions on the reporting of detentions, and impose government restrictions on basic rights that were in violation of Colombia's international obligations. He would also like a fuller statement, in answer to question 1 on the list of issues, as to whether the entry into force of the draft anti-terrorism legislation would make permanent some of the unconstitutional measures adopted during the state of emergency. It also was not clear what the State party's attitude was towards impunity for human rights and humanitarian law violations.

32. Furthermore, he was concerned that the legislation under consideration to reform the justice system might actually envisage limitations on the very valuable *amparo* proceedings hitherto available.

33. In view of the continuing reports of clear links between members of paramilitary groups and State security officials, who enjoyed impunity for their participation in the self-defence groups, he asked if it was true that the Government was contemplating granting amnesty in such cases; how the Government explained the rise in the number of paramilitary groups in recent years; why State security officers convicted of human rights violations or participation in paramilitary groups had not been dismissed; and whether any effective arrest warrants for paramilitary leaders had been issued.

34. With reference to the recruitment of "peasant soldiers", he wondered if the basic right of conscientious objection under article 18 of the Covenant was an option in Colombia.

35. Lastly, he found the delegation's answer to question 5 very troubling. How could Colombia fulfil its obligations under the Covenant if a committee of ministers decided in each case whether it should comply

with the Committee's Views and recommendations under the Optional Protocol?

36. **Ms. Wedgwood** said that the delegation represented a keystone State, one whose problem of internally displaced persons had reached an unprecedented scale.

37. She welcomed the implementation of the *Haz Paz* programme and the ratification of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. It would, however, be necessary to provide social statistics so that an objective assessment could be made to give details concerning the number of prosecutions, rather than merely stating that the capacity to prosecute existed. She wished to know if there was any policy that required prosecution as a matter of course, since a policy of prosecuting all criminal cases, with or without the consent of the victim, would act as a deterrent. Further information was also required regarding shelters for battered women and police training.

38. She took note of the possibility of defending oneself against prosecution for the crime, under Colombian law, of seeking an abortion; however, even with the availability of a defence, the possibility of prosecution marked the woman as a criminal. The fact that women did not report violence was linked to their inability to have an abortion in cases of incest or abuse. She wondered if the State might be able to lead the way by providing for a woman to have an abortion on the ground of self-defence, owing to the state of her physical or mental health. That would prevent a woman from becoming involved in criminal proceedings, and a woman who thought that she had a valid defence could receive legal advice and proceed with an abortion. It was also important to know how many doctors had been prosecuted for carrying out abortions.

39. She had received information from a non-governmental organization indicating that there were no cases of prosecution of sexual violence in the Attorney-General's Office. She wondered if that was a dated information and if the delegation could provide current figures. In the case of war crimes, it would be helpful to know if there had been, or would be, a focus on the systematic abuse of women.

40. It was unclear whether it was the national Government or the territorial states that were responsible for expenses relating to internally displaced persons. It would be useful to learn what percentage of the children of internally displaced persons went to school and whether those persons were able to vote.

41. She noted that steps had been taken to enable Afro-Caribbean people to participate in local and national elections, further details should be provided on whether Afro-Caribbean people were already participating in those activities or merely aspired to do so. Paragraph 981 of the report mentioned the challenges faced by indigenous groups, who wanted autonomous territories and the reunification of populations straddling a border, as well as a second seat in the House of Representatives; any progress made in that area should be clarified.

42. **Sir Nigel Rodley** said it was regrettable that the situation of massive human rights violations, executions, disappearances and torture had not improved over the decade and that many of those crimes were being committed by State forces or by the paramilitaries. Some paramilitary forces had been established with the acquiescence of the State authorities. While he was pleased to hear about the plans to disband the paramilitaries, further clarification was needed regarding the granting of amnesties. The delegation had pointed out that an amnesty could not be granted to a person being investigated or convicted of crimes against humanity. It was unclear, however, whether the granting of an amnesty foreclosed any future war crimes investigations, which might focus on paramilitaries and other armed groups. The Committee had raised question 10 in its last review, arguing that the plans to limit the powers of the Constitutional Court should be withdrawn. It would be helpful if the delegation would confirm that it had no intention of limiting those powers.

43. On the subject of "peasant soldiers", the State party should explain whether there was a difference between a peasant army and the rest of the military, given that the soldiers in question would be established in military bases, given some basic military training and subject to Act No. 471 of the military disciplinary code. He hoped that the "peasant soldiers" would not become a new version of the paramilitaries. Additional information on investigation procedures and criminal proceedings should be provided. He noted that there had been 23 indictments and nine convictions; it would be useful to have further details on the nature of the offences, the length of the prison sentences and the perpetrators involved.

44. Regarding the use of informers, it was not surprising that the population did not feel safe in cooperating with the security forces or the paramilitaries,

given that the security forces had shown no respect for human rights or the dignity of the people.

45. It was interesting that there had been no investigations into cases of genocide because the prerequisites of the crime had not been met. Since in Colombia the term "genocide" encompassed political motives, as well as racial, religious and ethnic ones, he wondered if there had been any massacres in the context of the armed conflict.

46. He was encouraged by the fact that the level of forced displacement had decreased by 50 per cent, although it was unclear whether the policy of prosecution had led to that, given that there had been only 17 investigations and one conviction. It would be useful to learn whether the perpetrators of forced displacement were guerrilla bands, security forces, paramilitaries, the armed opposition or what could be termed terrorists. In the case of the 41 investigations of disappearances within the national territory, more information was needed on the time period involved, the number of incidents and the identities of the perpetrators.

47. Referring to question 15, he said he understood that the Government Commission on Human Rights had travelled to the western part of the country to prosecute cases involving "social cleansing", in which the crimes had been committed mostly by the paramilitaries and the self-defence groups. The reporting State should be more specific about the number of arrests, investigations and prosecutions in those cases.

48. **Mr. Depasquale** said that he had doubts regarding the issue of informers and collaborators and wished to know whether there was any distinction between the two categories. The number of informers used by the Government should be stated.

49. **Mr. Kälin** said that he had received positive news with regard to internal displacement, including a reduction in the level of displacement. Investigations were being conducted into the crime of forced displacement. He had taken note of the detailed information in the report on programmes to assist internally displaced persons. That news contrasted with the Constitutional Court's Ruling G 025 of 22 January 2004, wherein the Constitutional Court, faced with the failure to protect more than 1,000 families, had concluded that the constitutional rights of those families had been systematically disregarded. Further information was required on that ruling and on the measures taken by the Government to implement the Court's decision. He had also received information on the specific problems of internally displaced women, who were exposed to domestic violence and gender-related violence; it would be useful to know whether specific measures existed to help them.

50. **Ms. Chanet** welcomed the completeness of the report submitted by the delegation, while suggesting that the Committee should use the conclusions of the previous report as the starting point for its analysis, as that would enable the Committee to follow the evolution of its recommendations.

51. She noted that with regard to the abduction of Ms. Batancourt two years earlier, on 23 February 2002, the situation remained the same.

52. On the subject of abortion, she had been taken aback by the delegation's replies because of the high mortality rate due to clandestine abortions. She recalled the Committee's general observations on equality between men and women, as well as it observations regarding the report submitted by Poland. In the case of a woman prosecuted for abortion under the Penal code after having been the victim of rape, she understood that the woman could benefit from extenuating circumstances, but could not claim justifying causes. That situation must be clarified if the Government aimed to comply with the Covenant and the Committee's way of interpreting the Covenant.

53. **Mr. Shearer** asked what the current situation was with regard to article 4 of the Covenant. He wished to know whether any declaration of a state of emergency had been made under article 4 of the Covenant that would constitute a derogation from the State's commitments under the Covenant. With regard to the Protocol Additional to the Geneva Conventions (Protocol II), he noted that the State had become a party to the Protocol in 1995. It was unclear whether the State party recognized that the current situation was one to which the Additional Protocol applied.

The meeting rose at 6 p.m.

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Human Rights Committee
Eighteenth session

Summary record of the 2168th meeting
Held at Headquarters, New York, on Tuesday, 16 March 2004, at 10 a.m.

Chairperson: Mr. Amor

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***Fifth periodic report of Colombia* (*continued*)**

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04-27216 (E)

The meeting was called to order at 10.15 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Colombia (continued) (CCPR/C/COL/2005/5; CCPR/C/79/L/COL)

List of issues (continued) (CCPR/C/79/L/COL)

1. At the invitation of the Chairperson, the delegation of Colombia took places at the Committee table.

2. **The Chairperson** invited the delegation to answer the additional questions the Committee members had posed in relation to questions 1 to 15 on the list of issues, that is, those concerning the constitutional and legal framework within which the Covenant was implemented (article 2 of the Covenant); equality of rights between men and women, the principle of non-discrimination and protection of the family and children (articles 3, 23, 24 and 26 of the Covenant); states of emergency (article 4 of the Covenant); right to life, liberty and security of person and prohibition of torture (articles 6, 7 and 9 of the Covenant).

3. **Mr. Giraldo** (Colombia) said that if the delegation could not provide sufficient detail, written replies would be sent as soon as possible.

4. **Ms. Gil** (Colombia) said that Legislative Act No. 02 of 2003 amending the Constitution in order to combat terrorism, which had been subject to a full democratic debate prior to its passage, placed limitations on certain rights, such as habeas corpus and privacy of domicile and correspondence. The limitations it placed were those permitted under article 4 of the Covenant and were in no way arbitrary. Their application was limited in both time and scope: they were to be in effect for only four years and were intended to apply only in specific circumstances and places to be defined by statute. The four-year time limit also answered the concern that the provisions of Decree No. 2002 of 2002 that had been declared unconstitutional would be made permanent by the Act. Units of the armed forces would be given judicial police powers only on a temporary basis and in certain places and circumstances and solely at the request of the Office of the Public Prosecutor.

5. With regard to compliance with the Committee's views and recommendations under the Optional Protocol, the Colombian Government was committed to complying fully with the recommendations of international bodies. Act No. 288 of 1996 established the procedure for implementation. The role of the Committee of Ministers under the Act was to review the recommendations that had financial implications to determine what budgetary changes would be necessary. Nearly 30 recommendations of international bodies had been implemented pursuant to Act No. 288. The Committee of Ministers had given an unfavourable opinion in only two cases, and in such circumstances the Act provided that Colombia should go back to the international body that had issued the recommendation to explain the difficulties it faced in implementing it. The delegation could provide a written statement of the details of those cases.

6. With regard to conscientious objectors, military service was mandatory for all Colombian citizens, both men and women. Some exceptions were allowed on religious or ethnic grounds. Indigenous persons did not have to serve but could volunteer.

7. The Colombian Government was very concerned about domestic violence and would be happy to send statistics making it possible to gauge the extent of the problem. However, it considered domestic violence to be only one aspect of the broader issue of gender violence in Colombia, including the violence against women engendered by displacement and the very serious problem of trafficking in persons, which Colombia would need the help of the international community to combat. The delegation would prepare and send information on all aspects of gender violence in Colombia.

8. With regard to relations between the State and non-governmental organizations concerned with human rights, one of the tasks entrusted to the Presidential Advisory Council on Equal Rights for Women was to form strategic alliances with non-governmental women's organizations.

9. Questions had been raised about limitations on the powers of the Constitutional Court with respect to acts concerning states of exception. It should be borne in mind that such acts took two forms. There was the act declaring the state of exception based on an assessment that public order had been disrupted. The Government's position was that the Constitutional

Court should not be able to declare such acts unconstitutional, since such an assessment was the sole prerogative and responsibility of the executive branch. There were also acts providing for specific measures to be taken in the case of a state of exception, which might very well be attempts to restrict civil liberties, and such acts remained subject to review by the Constitutional Court.

10. In response to concerns that the recruitment of "peasant soldiers" would tend to create a paramilitary force, it should be noted that the peasant soldiers were part of the regular armed forces, were fulfilling their mandatory military service obligation and were subject to all the disciplinary rules applicable to the armed forces.

11. **Mr. Franco** (Colombia) referred to suggestions that the human rights situation had been deteriorating since 1997 and that political assassinations had increased. While the situation was far from satisfactory, the statistics showed that it had clearly improved. The number of massacres and abductions had dropped sharply from 2000 to 2003. It had been said that although the number of murders had declined, the number of political assassinations had increased, but he wished to point out that it was not always possible to know the motivation behind a murder. There were fewer killings of mayors, council members, union leaders, leftists and opposition members. During the elections in 1997, 82 candidates had been abducted and 52 assassinated, whereas in 2003, 16 candidates had been abducted and 29 assassinated. Obviously, there was still much cause for concern, but the figures showed an improvement. Members of the opposition party had won important electoral races and had been able to take office without hindrance. It was said that the democratic security and defence policy had exacerbated violence, but the drop in the figures for murders and abductions since the policy had been adopted showed otherwise.

12. It had also been suggested that Colombia was a nation in arms and that the public security forces were untrustworthy and were in fact not trusted by the general public. One should not lose sight of the central goal of defending democratic institutions and society itself from the depredations of the illegal armed groups. The negotiation option was being pursued, but until peace could be achieved, the Government had no choice but to confront the situation by strengthening the public security forces and engaging the whole society in combating the problem. Informers and collaborators were recruited on a purely voluntary basis. With regard to confidence in the public security forces, it should be noted that 86 per cent of the illegal combatants who had been demobilized had given themselves up to the government forces. In 2002, of over 9,000 complaints of human rights violations received by the independent Office of the People's Advocate in which the perpetrator was identified, only 260 concerned public security forces, and in 2003 there had been only 160 such complaints. Even that was far too many, but progress was evident. The present Administration was committed to pursuing any fair accusations of human rights violations involving members of the security forces. Recent opinion polls showed that the public security forces were viewed favourably by a high percentage of respondents.

13. With regard to states of exception, the Colombian Government respected its commitments under article 4 of the Covenant, paid close attention to the Committee's General Comment No. 29 and was guided by the principles of proportionality, legality, non-discrimination, non-derogability of certain rights and the temporary nature of derogations. Those principles were embodied in Act No. 137 of 1994. Constitutional provisions stipulated that states of exception could be declared only for successive periods of 90 days up to 180 days in a given year and were subject to the oversight of the judiciary and the legislature. A state of exception had been declared on 9 August 2002 in circumstances making it indispensable, including the attack on the Nariño Palace during the inauguration of the President and the fact that in 25 per cent of the municipalities of the country the democratically elected mayors had been unable to govern. For the duration of the declared state of exception, ending in February 2003, the Government had complied with the decisions of the Constitutional Court, the state of exception had been freely debated in the legislature and the measures taken had been aimed, not at civil liberties, but at threats to democracy. The so-called "war tax" had been levied only on those with incomes of over $1 million to raise additional revenues.

14. In reply to the question concerning how the Protocol Additional to the Geneva Conventions of 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) applied to the Colombian situation, the Government believed that the Protocol was not just politically but also ethically

binding on all persons, including the illegal armed groups. It had incorporated the content of the Protocol in all plans, programmes and training guidelines for the public security forces.

15. It was the Government's view that in the light of the transformation of the internal conflict, the negotiating efforts of the past four years and the existence of democratic institutions, there was no longer any justification for the armed conflict. It considered murder and abduction to be crimes and would ensure that they were prosecuted. The extensive use of land mines by insurgents had cost the lives of as many civilians as members of the security forces.

16. With regard to displaced persons, 181 entities made up the system serving the needs of displaced persons for food, health care, housing and education. The delegation had additional written information to provide in that regard. The only entity that had doubled its budget despite the economic crisis was the Social Solidarity Network. The Committee for Comprehensive Services to Displaced Persons would be meeting in a few days to respond to the Constitutional Court ruling of 22 January 2004.

17. With regard to allegations about ties between the paramilitary groups and the security forces, all the members of the security forces indicted had been separated from the service. The aim of the Government was to cut any such ties and root out all illegal armed forces. The paramilitary groups had burgeoned in part owing to the weakness of the State and the excesses of other illegal armed groups in some regions and in part owing to the grip that drug trafficking had on the country. Decree 128 of 2003 would be no bar to future prosecution of any persons implicated in war crimes or crimes against humanity.

18. With regard to paragraph 972 of the report, Afro-Colombians were able to participate in all planning mechanisms at the national and local levels. In addition, there existed a High-Level Advisory Committee for Black Communities and a Standing Committee for Consultation with Indigenous Peoples and Organizations. All the consultations required for environmental impact issues had been held. Moreover, a very large percentage of the national territory had been allocated to the Afro-Colombian community and indigenous groups.

19. **The Chairperson** invited the delegation of Colombia to address questions 16 to 28 on the list of issues.

Right to trial with due guarantees, independence of the judiciary (article 14 of the Covenant)

20. **Mr. Ramírez** (Colombia), replying to question 16, said that the Human Rights Unit had been strengthened, not weakened, by decentralization, as demonstrated by the increase in the number of prosecutors from 25 in 1994 to 41 currently. In addition, 11 support units had been created in the areas of the country where armed conflict was the heaviest. The restructuring of the Office of the Public Prosecutor had been designed to increase its ability to safeguard evidence and protect witnesses and victims of human rights violations promptly and efficiently.

21. Replying to the request for clarification about the allegations of arbitrary dismissal of prosecutors in the Human Rights and International Humanitarian Law Unit, he said that the Public Prosecutor appointed all the officials within the Office, and consequently had the authority to dismiss them. Such authority was never exercised arbitrarily or abusively. Of the 41 prosecutors mentioned earlier, only four had been dismissed. Staffing decisions — including the decisions to dismiss the individuals referred to in the question — were aimed solely at improving the efficiency of the Unit, as management statistics proved. Comparing the work of the Human Rights Unit from 1 January to 31 July 2001 with its work from 31 July to 31 December 2003, he said that the number of indictments had risen from 151 in 2001 to 229 in 2003; cases of preventive detention had risen from 691 to almost 1,200; successful prosecutions had risen from 516 to 791 and plea-bargains had risen from 25 to 97.

22. Turning to the question whether the State had concrete plans to submit a bill to Congress establishing a career structure in the Office of the Public Prosecutor, he said that Act No. 3/2002 had reformed the scope of work of that Office, removing some of its functions. The Act ensured full compliance with article 10 of the Covenant, providing for public trials based on evidentiary proof, with full respect for due process. The new system would come into effect on 1 January 2005 and take three years to implement. Once it had been shown that the system worked, legislative measures would be taken to establish a career system in the Office. The autonomy of prosecutors in the

adoption of their decisions was protected by law. The Public Prosecutor had no hierarchical authority over them in the matter of their decisions.

23. In replying to the question whether the Office of the Public Prosecutor had declared itself incompetent in favour of military criminal justice in specific cases of serious human rights violations, he stated that in Colombia conflicts of jurisdiction were settled by the Higher Council of the Judiciary. In the Santo Domingo and Mapiripán cases, the Office of the Public Prosecutor had declared itself competent. In the Pueblorrico case, the Public Prosecutor had established that the children's deaths had occurred in the context of a military operation, and therefore the case had been turned over to a military court.

24. In reply to the question regarding the adequacy of the funding for the Ombudsman's Office, he said that the Colombian criminal justice system was undergoing a total transformation, to bring it into conformity with the most important human rights instruments. The Ombudsman's Office and the national public-defender system that was being implemented were key elements in ensuring absolute equality between the body bringing the accusation and the accused. The Government considered the reforms important and would ensure that they were supported financially and through legislation. In fact, a bill was currently before the Congress that would oblige the Government to take the necessary budgetary steps to guarantee the funding of the Ombudsman's Office.

Freedom of expression and association; right to vote and to be elected *(articles 19, 22 and 25 of the Covenant)*

25. **Ms. Gil** (Colombia), replying to the allegation that intelligence files had been kept on human rights defenders and that the telephones of non-governmental organizations had been tapped, said that the Government of Colombia was determined to strengthen relations between the State and non-governmental organizations, and recognized their contribution to human rights and their support of the State.

26. The activities of human rights defenders were not the target of the intelligence services. If the names of some human rights defenders had appeared in intelligence reports, it had been for reasons unrelated to human rights activities. There had been one case of telephone-tapping, which had been properly investigated and punished. The State party would report to the Committee on the officials punished, the nature of the punishment and the status of the investigations.

27. **Mr. Franco** (Colombia), replying to the question concerning the violation by the State and by army officials of Presidential Directive 07, said that it was the Government's policy to protect members of non-governmental organizations. At the same time, it reserved the right to hold discussions with such organizations over errors of fact that might appear in their reports. The organizations needed to understand that the State must take a stand against the violence that threatened to undermine democratic institutions and harm civil society. Such matters were grounds for discussion. The Vice-President himself had held dialogues with non-governmental organizations; meetings with the military were currently being arranged and the Government was meeting with the organizations on the regional level.

28. With regard to the elections held in 2002, the Government had instituted guarantees of transparency. A programme had been implemented involving monitoring committees and international observers, education campaigns for voters and security for candidates. As a result, the number of candidates in 2003 had doubled.

Rights of minorities (article 27 of the Covenant)

29. **Mr. Franco** (Colombia), replying to the question concerning the representation of the indigenous and Afro-Colombian communities in the three branches of State power, said that there were special quotas of two indigenous persons in the Senate and two indigenous persons and two Afro-Colombians in the House of Representatives. Indigenous people and Afro-Colombians held municipal office, including at the level of mayor. The Government had set up a committee to deal with the special risks incurred by ethnic minorities. It was currently working on a protection plan for minority communities and had already convened indigenous security councils in different areas.

30. In reply to the question concerning consultations with indigenous communities, he said that action affecting the communities was never taken without prior consultation; to that end, a technical consultative

group and a political consultative group had been established.

31. **The Chairperson** thanked the delegation of Colombia for its replies and invited Committee members to ask any additional questions they might have concerning questions 16 to 28, the delegation's answers to the Committee's previous set of oral questions, Colombia's fifth periodic report or the general human rights situation in the country.

32. **Ms. Chanet**, addressing Columbia's legal system, noted that although the delegation had spoken of recent improvements in the human rights situation in Colombia, the 2003 report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia (E/2004/CN.4/13) did not appear to endorse that view. The report noted that the armed conflict was worsening, that the human rights situation had deteriorated due to drugs trafficking and the economic crisis and that there had been a significant increase in violations directly attributable to members of government forces. The report also implicated the Office of the Attorney-General in those violations. She wished to know the delegation's reaction to that apparent contradiction. Moreover, the Office of the Attorney-General seemed to be invested with extraordinary powers to restrict individual freedoms. The delegation had not provided an answer regarding the professional status of officials of the Office, and she would welcome information about provisions for their oversight, especially in the light of article 9, paragraph 4 of the Covenant. She would also welcome information about the mechanisms provided for defence in proceedings involving the Office of the Public Prosecutor, about whether lawyers were provided, and about their level of independence. The High Commissioner's report had recommended the establishment of a professional career structure for the Office, and she wished to know how prosecutors were appointed.

33. With regard to article 4 of the Covenant, Colombia's fifth periodic report appeared to present a contradiction regarding the state of emergency. The fifth periodic report stated that there had been no state of emergency during the current presidency, and yet according to the report of the High Commissioner (para. 80) the administration of justice had had to face major challenges as a result of the establishment of a state of emergency, notably with regard to the presumption of innocence and the guarantee of due process. In its concluding observations concerning Colombia's previous report, the Committee had asked about anonymous judges, and she wondered whether they still existed. With reference to article 14 of the Covenant, she noted that in its consideration of Colombia's previous report, the Committee had been insistent in its questions about the system of military justice in Colombia, but that the Government's response had been limited to paragraphs 191 and 192 of the fifth periodic report. She wished to know the exact composition of the military courts.

34. **Ms. Wedgwood** said that the delegation had not provided adequate replies concerning abortion in Colombia, and requested further information. She noted that there was reason for the Committee to be sceptical about lawyers' ability to remain independent within the military system of justice. Information about the implications of the 1997 ruling of the Constitutional Court, referred to in paragraph 191 of the fifth report, would be appreciated. With regard to the issue of wire-tapping, she said that if public statements about the overhearing of human rights defenders were too often combined with public criticism of their activities, the Government might erroneously be interpreted as wishing the defenders harm.

35. **Mr. Solari Yrigoyen** asked how the State party had disseminated information about its fourth periodic report and about the Committee's concluding observations.

36. **Mr. Bhagwati**, referring to paragraph 52 of the fifth periodic report, asked how the legal system had been strengthened by Act No. 270 of 1996, and what had been the nature of the Constitutional Court amendment. He wished to know how many constitutional cases had been heard since the submission of Colombia's previous report and whether any laws or regulations had been declared invalid because they were inconsistent with the Covenant or the Constitution. He also wished to know the Government's position regarding the powers of the Constitutional Court. The powers of the security forces had been viewed with concern by the Committee in its concluding observations concerning the fourth periodic report, and he would welcome more information about those powers. Referring to paragraph 146 of the report, he asked what measures had been taken to strengthen the capacity of the Colombian justice system to investigate violations of international humanitarian

law. He also wished to know the status of the inquiry into the links between State agents and illegal paramilitary groups, referred to in paragraph 151 of the report. He wished to know the composition of the Human Rights Unit of the Office of the Public Prosecutor, and in particular whether it included non-governmental organizations. He would also appreciate more information about the powers of the Ombudsman to deal with complaints of human rights violations.

37. **Mr. Wieruszewski** noted that the situation for local and international members of non-governmental organizations in Colombia remained dangerous, despite the Government's efforts to address the situation. He wished to know the Government's position in that regard, as it might sometimes appear that the situation as described to the outside was different from the real situation on the ground.

38. **Mr. Glèlè-Ahanhanzo**, speaking also in his capacity as the United Nations Special Rapporteur on Racism, welcomed the various measures taken by the Government to address the plight of the indigenous peoples of Colombia, but noted that their situation had not changed greatly as a result. Discrimination remained, and poverty was worsening; he would appreciate more information from the delegation in that regard. He also wished to know how the Government guaranteed the rights of human rights defenders. He would appreciate statistical data concerning the effective participation of minorities in public life, and about the Government's plans to settle the question of land ownership and the preservation of the country's biodiversity. In conclusion, he suggested that the armed conflict prevailing in the country could not be deemed the source of all the country's human rights problems, and he wished to know what was being done in concrete terms to address the overall human rights situation.

39. **Mr. Yalden** asked for clarifications and statistics concerning the possibility of women obtaining a legal abortion in Colombia. Other United Nations bodies and the Committee itself had earlier raised concerns about the criminalization of abortion in Colombia and the high mortality resulting from clandestine abortions.

40. **Sir Nigel Rodley** said that the Committee could not be pleased to hear that certain measures in Colombia with regard to which the Committee had raised concerns earlier were not only not being withdrawn but were even being further extended. He had in mind the constitutional amendment allowing the military to be given the status of judicial police and the decision that the Constitutional Court could not rule on the legality of declarations of emergency. What was constitutional in a given country depended, of course, on the legal context of that country but tampering with the system of checks and balances in any country could have very serious effects. He hoped that Colombia took seriously concerns raised by the Committee and other international human rights bodies. He also asked for clarification as to whether the proposed amnesty for paramilitary people who laid down their arms would also mean that a person who had benefited from the amnesty and who had not been charged with war crimes at the time could nevertheless be prosecuted for such crimes if it were discovered afterwards that he had committed such crimes.

The meeting was suspended at 12.20 p.m. and resumed at 12.35 p.m.

41. **Mr. Ramírez** (Colombia) said that in considering the functioning of the judiciary in Colombia it must be borne in mind that there were controls and guarantees in place. Article 29 of the Constitution guaranteed due process in criminal proceedings and those accused of crimes were guaranteed the assistance of an attorney. Decisions taken at a particular level were subject to review at the next level. Judges also subjected proceedings to reviews for legality concerning observance of procedural and evidentiary rules. Under article 93 of the Constitution the provisions of international human rights instruments to which Colombia was party were considered to have the force of domestic law. The Constitutional Court had on several occasions overturned decisions on that basis. The Committee would be given more detail on the work done by the Higher Council of the Judiciary in exercising disciplinary control over prosecutors. On the subject of military justice, the 1991 Constitution did not permit military tribunals to judge civilians. The new military penal code provided criteria for decisions that were compatible with Colombia's international treaty obligations. Questions of jurisdiction involved, for instance, determining whether the acts in question by a military person had been committed in the exercise of his official functions. Under the 1991 Constitution branches of Government were independent. The Higher Council of the Judiciary had been established to administer all resources of the judiciary and to monitor the performance of judges.

The Constitutional Court had revised the Act establishing the Higher Council and specifying its functions several times. The independence of the Attorney-General's Office and all its prosecutors was ensured by a system of checks and balances that protected the independence of individual prosecutors from outside pressure. His delegation would provide the Committee with a fuller account and statistics concerning that Office and its work.

42. **Ms. Gil** (Colombia) said that there was no contradiction between the information on states of exception presented in the current report and that in the previous one; there had been no such states during the previous period. On the subject of the military justice system, the new military justice code had been introduced in 2000, establishing the independence of that system from the military command structure. The military tribunals did not deal with cases involving crimes against humanity, but focused on service-related acts, and there was a body of case law in the Constitutional Court and criteria had been established to enable judges to determine whether specific acts were service-related.

43. According to reports telephone tapping activities had involved only one non-governmental organization; they were certainly not systematic and were subject to criminal prosecution if the proper legal procedures were not followed. With regard to the effect of new legislation on the powers of the Constitutional Court, especially during states of exception, she said that no limitations had been imposed and that the Committee's concerns in that regard would be transmitted to those preparing the legislation. Concerning the powers of the Office of the Ombudsman, she said that that Office was the primary body charged under the Constitution with monitoring and protecting human rights. With regard to the issue of abortion, her Government would submit a detailed written report to the Committee on the legal, cultural and social aspects of the problem.

44. **The Chairperson** thanked the Colombian delegation for its report and replies to the Committee's questions. The Committee remained, however, somewhat perplexed. Colombia had clearly shown good will and desire to achieve progress but action to that end had been rather limited. Although some progress had been made, many serious problems remained. Social attitudes were also an obstacle. In that connection he cited the criminalization of abortion, even in case of rape, in which a woman ended up being doubly victimized. The continued harassment and persecution of human rights organizations and workers was of great concern. Despite some degree of improvement, much remained to be done in Colombia to ensure that country's commitment to implementing the requirements of the Covenant.

The meeting rose at 1.05 p.m.